LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 26, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3332** by Merritt (Relating to an exemption from the oil severance tax for oil produced from certain low-producing wells.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3332, As Introduced: a negative impact of ($281,888,071) through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	($111,254,574)
2011	($170,633,497)
2012	($109,777,497)
2013	($100,531,497)
2014	($111,641,497)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Foundation School Fund* 193	Probable Revenue (Loss) from *Economic Stabilization Fund* 599	Probable (Cost) from *General Revenue Fund* 1
2010	($78,213,000)	($32,888,000)	$0	($153,574)
2011	($103,501,000)	($66,946,000)	($20,450,000)	($186,497)
2012	($24,812,000)	($84,779,000)	($97,338,000)	($186,497)
2013	$0	($100,345,000)	($229,525,000)	($186,497)
2014	$0	($111,455,000)	($301,035,000)	($186,497)

Fiscal Year	Change in Number of State Employees from FY 2009
2010	4.0
2011	4.0
2012	4.0
2013	4.0
2014	4.0

Fiscal Analysis

The bill would amend Chapter 202 of the Tax Code by adding Section 202.0585 to provide an oil severance tax exemption for a qualifying low-producing oil well whose production during a calendar year averages less than 15 barrels per day. The bill would also cover qualifying wells already under various tax incentives such as enhanced oil recovery (EOR) and in-active well programs.

The bill would require the Railroad Commission (RRC) and the Comptroller's Office to develop rules and procedures to implement the tax exemption. RRC would issue qualifying-well certificates to the Comptroller and producers. RRC could revoke a certificate and the exemption would end on the date of revocation. Taxpayers would have to apply to the Comptroller for the exemption.

The bill provides civil penalties for false information and fraudulent claim of the exemption.

The bill would take effect January 1, 2010, and would apply to crude oil produced on or after that date.

Methodology

The estimated oil production revenue loss was based on data derived from the Comptroller's tax information and RRC historical production records. Information from the *2010-11 Biennial Revenue Estimate* was used in the fiscal analysis. Production from existing EOR tax incentive was included. However, production from inactive wells was excluded since they are fully exempted.

The Railroad Commission indicates that in order to process the applications for the oil production tax exemptions, they will need to hire an additional 4 FTEs at the Administrative Assistant II level. These costs are displayed in column 4 of the above table.

Because the severance tax exemption would lower oil production tax collection, the transfer from General Revenue to the Economic Stabilization Fund (ESF) would be reduced due to the Constitutional requirement that an amount equal to 75 percent of the fiscal year oil production taxes in excess of the net amount received in fiscal year 1987 ($531.871 million) be transferred to the ESF. The remaining 25 percent of the fiscal year oil production taxes in excess of $531.871 million is assumed to be a loss to the Foundation School Fund.

The *2010-11 Biennial Revenue Estimate* forecasts that the oil production tax will bring in revenue greater than the ESF transfer threshold of $531.871 million in fiscal years 2010 through 2012. However, for the purpose of this analysis, in fiscal years 2010 through 2012, the oil production tax, with the bill's provisions included, would produce less than the ESF transfer threshold. Therefore, there would also be a loss to the General Revenue Fund, since 75 percent of the total oil production tax below the ESF threshold is deposited into GR (with the remaining 25 percent deposited into the Foundation School Fund). In fiscal years 2013 and 2014, the amount of revenue generated by the tax, with the bill's provisions included, is expected to exceed the ESF threshold; therefore, the General Revenue Fund would not experience a loss. Finally, it should be noted that transfers to the ESF are based on the preceding fiscal year tax collections, so for example, the $20.45 million ESF loss in fiscal year 2011 actually occurred in fiscal year 2010.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 455 Railroad Commission

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